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LAND TENURE AND SETTLEMENT

SECTION 1. INTRODUCTION AND EARLY HISTORY

1. **Introduction**

The various forms of land tenure which have been adopted with a view to securing the settlement of a large and sparsely populated country like Australia are not only of interest to the immigrant, but also have an important and immediate bearing upon the welfare of the community. An attempt was made in Year Book No. 2**,** to give a comprehensive description, in a classified and co-ordinated form, of the land systems of the several States, and to thus obviate the necessity of having recourse to the numerous Acts of Parliament and other documents dealing with the subject. That description has been brought up to date and is repeated in this volume **in extenso** in so far as it relates to existing forms and conditions of tenure; the historical matter dealing with the development of the land legislation has, however, been considerably condensed in the last two issues of the Year Book. For a more complete account of the land legislation in the individual States, reference may therefore be made to Year Book No. 2 (pp. 263 to 272).Though there is a certain similarity between the principal forms of tenure in the States of the Commonwealth, the difficulty of the task of rendering a succinct and co-ordinated account of the land systems is increased by the variety in detail of the terms and conditions imposed, and also by the different manners in which statistics dealing with the subject are presented by the several States. In the account given in this section the classifications ordinarily adopted in the several States have necessarily not always ken adhered to, the tenures having been reclassified in accordance with the scheme indicated hereunder. (See 4.) Statistics relating to various forms of tenure have also, where necessary, been regrouped according to that scheme.

In order to preserve continuity, and in order that the general trend of land legislation may be comprehended, a short historical account of land settlement in the Commonwealth is first given hereunder.

2. **First Grants of Land made In New South Wales, 1789**

In the early days of Australian colonisation, land was alienated by grants and orders from the Crown. The first instructions, issued on the 25th April, 1787, authorised the Governor to make grants only to liberated prisoners, but by further instructions issued by the Secretary of State in 1789, the privilege of obtaining grants was extended to free immigrants and to such of the men

belonging to the detachment of marines serving in New South Wales - which then included the whole of the eastern part of Australia - as were desirous of settling in the colony; the maximum grant was not to exceed 100 acres, and was subject to a quit-rent of one shilling per annum for every fifty acres, to be paid within five years of the date of issue. In many cases these grants were made conditional upon a certain pro-portion of the land being cultivated, or upon certain services being regularly performed, but these conditions do not seem to have been enforced. The first settler was a convict of the name of James Ruse, who, having been liberated, entered on his farm of thirty acres at Parramatta on the 25th February, 1789. The first free settlers arrived in the **Bellona** on the 15th January, 1793, and took up land at Liberty Plains, about eight miles from Sydney.

3. **Grants of Town Allotments In Sydney, 1811**

Until the year 1811 all the land which had hitherto been alienated lay outside the borders of the town of Sydney, but in that year the Governor, with the authority of the Secretary of State, commenced to grant town allotments on lease only, for periods of fourteen or twenty-one years **;** the rents on these leases varied considerably from time to time according to the discretion of the Governor, by whom they were imposed. In 1824 and 1826 further regulations relating to grants to immigrants were issued by the Colonial Office. In 1829 leases were entirely abolished, grants of freehold estates being made in lieu, but five years later they were however, again introduced. As regards the payment of quit-rents generally, it appears that they were collected in a very perfunctory manner, and in later years the Government offered special inducements for their redemption.

4. **Introduction of Land Sales, 1825**

By this time the principle of alienation of land by sale to free settlers had already been introduced under Sir Thomas Brisbane and under a Government order of the 24th March, 1825, land was allowed to be sold by private tender, at a minimum price of five shillings an acre, no person being allowed to buy more than 4000 acres, nor any family more than 5000 acres. The disposal of lands by sale did not, however, interfere with the ordinary method of alienating town allotments and country lands by grants subject to the payment of quit-rents. In 1830 the division of the eastern part of the colony into counties, hundreds and parishes had been completed by a commission of three persons appointed for that purpose. Dividing the territory into nineteen counties, covering about 34,505 square miles, they made a valuation of the whole of the lands with a view to fixing a fair price for future sales. This territory comprised a belt of land in what is now the middle of the Eastern Division of New South Wales, extending from the coast nearly as far as the boundary of the Central Division, and from the Macleay River in the north to the Moruya River in the south.

5**. Free Grants Abolished, 1831**

On the 14th February, 1831, it was notified by a Government order that no Crown lands were in the future to be disposed of except by public auction, the minimum price for country lands being fixed at five shillings an acre, which was raised to twelve shillings an acre in 1839, power being given in the latter year to select, at the upset price, land for which there was no bid at the auction, or upon which the deposit paid at the time of sale had been forfeited. This was the first introduction of the principle of selection into the land laws of Australia, and it was then applied to lands which had been put up for sale by auction.

6. **Land Regulations Issued under Imperial Acts, 1842 and 1847**

In 1842 regulations made under an Imperial Act of Parliament came into force. The principle of sale by auction was maintained, the lands were to be surveyed before being put up for sale, and the upset price was fixed at twenty shillings an acre. It was provided that, subject to a primary charge for survey, half the proceeds of sales were to go to defray the cost of immigration of persons to the colony in which the revenue accrued. Special blocks of 20,000 acres formed an exception. They might be sold, before survey, by private contract at not less than the upset price. Under Orders in Council, issued on the 9th March 1847, in pursuance of the provisions of the Waste Lands Act of 1846, a new classification of lands took place, and the territory was divided into - (a) settled districts; (b) intermediate districts; and (c) unsettled districts. Under this Act the principles of sale by auction or by private contract were maintained, but a system was introduced by which leases were granted for various terms in each of the three divisions for pastoral purposes only. During the currency of such a lease the lessee could at any time purchase the freehold at the upset price of £1 an acre, and on the expiration of the term he had a pre-emptive right at the same price over all or any part of the land.

7. **Occupation of Pastoral Lands**

In the early days land was held for pastoral purposes under tickets of occupation, which ceased to be issued on the 1st May, 1827, after which date pastoral lands could only be occupied under annual licenses, upon payment of a quit-rent of twenty shillings per 100 acres, and had to be vacated at six months' notice. Under the Imperial Act of 1846, referred to above, an entirely new system for the occupation of pastoral lands was introduced. Under this system fixity of tenure of lease was granted, and the fee was paid upon the stock carrying capacity of the run. In the unsettled districts the term of the lease was fixed at fourteen years**;** in the intermediate districts the term was for eight years; while in the settled districts the yearly tenure was retained.

8. **First Land Legislation of Individual States**

The legislation of 1846 remained in force in New South Wales until the year 1861; and in the States of Victoria and Queensland, which were separated from the mother colony in 1851 and 1859 respectively, until repealed by Acts of the State Parliaments. The discovery of gold in 1851, and the consequent rush of population to Australia, greatly changed the conditions of colonisation. The various States of the Commonwealth have found it to their advantage to adopt different systems for securing the settlement of an industrial and agricultural population. The land regulations of Victoria, Queensland, and Tasmania were identical with those in force in New South Wales until the dates of the separation of these States from the mother State, and at the present time practically the same form of conditional occupation with deferred payments exists in all four States. In Western Australia and in South Australia the influence of the legislation of New South Wales was not felt. In these States new conditions prevailed; under a different set of circumstances settlement was effected by legislation of a special and novel character, and it was not until a later date that their land laws were brought more into line with those of the eastern States.

9. **New South Wales Areas Alienated between 1787 and 1859**

The subjoined statement shows the areas of Crown lands which had been alienated, both in the mother colony and in the settlements administered from Sydney, from the date of the foundation of the colony in 1787 up to the dates of separation of these settlements by their constitution as separate colonies:-

NEW SOUTH WALES ALIENATIONS, UP TO SEPARATION OF VARIOUS SETTLEMENTS, BETWEEN 1787 AND 1859.

Particulars	In New South Wales Proper (N.S.W.) .Acres.	In Van Diemen's Land[1] (Tasmania) Acres.	In Port Phillip District[1] (Victoria) Acres.	In Moreton Bay District[1] (Queensland). Acres.
From 1787 to 1823	520,077	57,423	...	...
From 1824 to 1836	4,268,750	...	...	...
From the first settlement in Port Phillip in 1837 to 1841	1,110,544	...	222,214	...
From the first settlement in Moreton Bay in 1842 to the separation of Port Phillip in 1851	48,119	...	121,702	2,521
From 1852 to the separation of Moreton By in 1859	899,283	...	...	58,398
Total from 1787 to 1859 inclusive	6,846,773	57,423	343,916	60,919

1. Particulars for the States after their separation are shown in subsequent paragraphs.

SECTION 2. LAND LEGISLATION IN INDIVIDUAL STATES

1. **New South Wales**

After the excitement of the first rush, following the discovery of gold in 1851, had died away, the interest in gold-digging commenced to decline and the number of people desiring to settle on the land greatly increased. The question of land settlement had accordingly to be dealt with in an entirely new spirit, to meet the requirements of a class of immigrants differing greatly front those contemplated by the Act of 1847.

(i.) **The Lands Act and Occupation Act 1861**. The public interest in the question which thus arose resulted in the passing of the Crown Lands Act and the Occupation Act in 1861, under the leadership of Mr. (afterwards Sir) John Robertson. The object of these Acts was to facilitate the establishment of an agrarian population side by side with the pastoral tenants. It had hitherto been difficult for men with limited capital to establish themselves with a fair chance of success, but under the new principle of free selection before survey, introduced by Robertson's Act, country lands were sold in limited areas of from 40 to 320 acres at a price of £1 an acre, payable partly by deposit, and carrying interest on the balance outstanding at the rate of 5 per cent. per annum. By the Occupation Act of 1861 the colony was divided into first and second-class settled districts and unsettled districts, and the whole of the pastoral leases were left open to the operations of free selectors. The system of unconditional sales was still continued under the Act of 1861, and remained in force until its abolition in 1884. With many benefits there was also considerable mischief as a result of the operation of Robertson's Act, chiefly for the reason that land, being held under pastoral leases not exempt from free selection, could be the subject of speculative selecting without **bona fide** intention of settlement.

(ii.) **Acts now in Force**. The Crown Lands Act of 1884 and the supplementary Act of 1889 were accordingly passed to remedy this state of things. These measures, while maintaining the principle of free selection before survey, were designed to give fixity of tenure to the pastoral lessees, and at the same time incidentally tended to restrict the area sold unconditionally. Pastoral leases were required to be surrendered to the Crown and divided into two equal parts. One of these parts was returned to the lessee under a lease with fixity of tenure for a certain term of years ; the other half, called the resumed area, the lessee was allowed to hold under an

annual occupation license, but this half was always open to selection.

It was found in course of time that the Acts of 1884 and 1889 did not succeed attaining the objects for which they were designed ; settlement proceeded very slowly and the accumulation of land into large estates continued. Parliament has been led to introduce entirely new principles into the agrarian legislation of the State, embodied in the Crown Lands Acts 1895 to 1909, the Labour Settlements Act 1902, the Closer Settlement Acts 1904 to 1909, and the Closer Settlement Promotion Act 1910, which, while still giving fixity of tenure to pastoral lessees, retain the principle of free selection before survey, and to offer **bona fide** settlers special inducements by the introduction of new forms of tenure on easy terms and conditions.

(iii.) **The Western Lands Acts**. All lands in what is known as the Western Division of New South Wales are now subject to the special provisions of the Western Lands Act 1901 to 1909. The registered holder of a lease of any description or of an occupation license of land could bring his lease or license within the provisions of the Western Lands Act by application before the 30th June, 1902. If he did not so apply, the lease or license is dealt with as if the Act had not been passed, and the Western Land Board constituted under the Act, is to be deemed to be the Local Land Board to deal with such cases. All leases issued or brought under the provisions of the Western Lands Acts expired on the 30th June, 1943, except in cases where part of the land leased is withdrawn for the purpose of sale by auction or to provide small holdings, in which case the Governor may add to the remainder of the lease a term, not exceeding six years, as compensation for the part withdrawn.

2. **Victoria**

The early history of land settlement in Victoria is intimately bound up with that of New South Wales. For the first fifteen years of its existence, during which period it was known as the District of Port Phillip, the alienation of Crown lands was regulated by the Orders in Council of the mother State, to which orders reference has already been made. In the month of September, 1836, the Port Phillip district was proclaimed open to settlement, and the principle of the sale of unoccupied land by auction was introduced. The first Port Phillip land sale took place on the 1st June, 1837, and the first Portland Bay sale on the 15th October, 1840. In the year 1841 the upset price of country lands, in New South Wales limited to twelve shillings per acre, was specially raised to twenty shillings per acre in the Port Phillip district.

The Orders in Council made under the Imperial Acts of 1842 and 1846, referred to above, remained in force until 1860, when an Act (known as Nicholson's Act) was passed by the Victorian Government, which, after making provision for special reserves for mineral purposes, etc., divided all Crown lands into country and special classes. The former were available after survey for selection in allotments of from forty to sixty acres, while special lands, situated near towns, railways, rivers, etc., were sold quarterly by auction at an upset price of £1 an acre.

(i.) **Duffy's Act 1862**. In 1862 free selection before survey was introduced by Duffy's Act, which provided for the setting apart of large agricultural areas, within which land could be selected at a uniform price of £1 per acre. Alternative conditions were imposed to the effect that certain improvements should be effected, or that part of the land should be placed in cultivation, and modifications were introduced as to the mode of payment. As regards pastoral lands, license fees and assessments of stock were abolished, and provision was made for the payment of rent for runs according to their value, based on their stock-carrying capacity. This Act was amended in 1865.

(ii.) **The Land and Pastoral Acts** 1869. The next legislation on the subject of land settlement was in 1869, in which year a Land Act and a Pastoral Act were passed, consolidating and

amending all previous land legislation. The system of free selection before survey, as applied to all unoccupied Crown lands, was retained, but the selected area was limited to 320 acres, and was at the outset to be held under license for a term of three years, during the first two and a-half years of which the selector had to reside on the land, fence it, and cultivate a certain proportion of it. At the end of the period of license the selector could either purchase the land outright or he might obtain a further lease of seven years, with the right to purchase at any time during the term. The pastoral Act of 1869 provided for the occupation of the land for pastoral purposes under two systems, either as runs under license or lease or under grazing rights. The Land Act of 1869 was amended in 1878, when the conditions of selection were greatly restricted, the immediate effect being a considerable falling-off in the areas taken up.

(iii.) **Acts now in Force**. In 1884 the whole system of land occupation and alienation, except as regards Mallee lands (see below), was altered: This measure was again modified by the Acts of 1890, 1891, 1893, 1896, 1898, and 1900, the whole being consolidated in the Land Act 1901, which came into force on the 31st December of that year, and which has in turn been modified by the amending Acts of 1903, 1904, 1905, and 1909. The subject of closer settlement was dealt with in the Land Act 1898 and 1901 and amendments until the introduction of the Closer Settlement Act 1904, which has been amended in 1906, 1907, and 1909. Other special forms of tenure have been provided for by the Settlement on Lands Act 1893, and the Small Improved Holdings Act 1906; these, however, are now embraced in the Land Acts and Closer Settlement Acts respectively. It is proposed to pass an amending and consolidating Land Act at an early date. Particulars of any amending Acts which may be passed prior to the publication of this book may be found in the Appendix.

(iv.) **Mallee Lands**. The territory known generally as the "Mallee" - so named from the scrub with which the country, in its virgin state, was covered - comprises an area of about 11,000,000 acres in the north-western district of the State, and of this area more than half is unalienated and available for occupation. The soil is mostly of a light chocolate arid sandy loam character, covered with scrub, interspersed with plains lightly, timbered with pine, buloke, belar, sandalwood, etc. The scrub can be cleared at a moderate expenditure, and the extension of railway facilities and of successful system of water-supply should bring large districts in this country into prominence as a field for agricultural enterprise.

Originally Mallee lands could be acquired under lease either as "Mallee Blocks" or Mallee Allotments." The former were very large areas of the back country, and the term was for a period of twenty years, which has now expired, and these areas are now only let under annual grazing licenses until required for selection.
"Mallee Allotments" could be leased up to a maximum area of 20,000 acres, but the area was latterly restricted to the area which could be selected. Leases of "Mallee Allotments" expiring on the 31st December, 1909, were extended to the 31st December, 1912, but no such leases can now be issued. Alienation by selection was allowed by the Land Act 1896, and lands in the Mallee are now dealt with by a special part of the Land Act of 1901 (see 6, 3, iii**)**, as amended in 1904 and by the Murray Settlements Act 1907.

3. **Queensland**

Previous to the year 1859 the Moreton Bay district, as it was then called, formed a portion of New South Wales. The early history of its method of land settlement is thus included in that of the mother colony. With separation from New South Wales, and the election of a Legislative Assembly of its own, the district of Moreton Bay - or, as it was henceforth to be known, the Colony of Queensland - entered on a new era of prosperity. The first Parliament of the new colony, which assembled in 1860, passed three Acts dealing with Crown lands.

(i.) **Pastoral Leases**. The first two of these (24 Vic., Nos. 11 and 12) dealt chiefly with the occupation of land for pastoral purposes, and their provisions differed but little from those adopted in the mother colony. These measures were amended by Acts passed in 1862, 1863, and 1864. In 1868 an Act was passed providing more land for agricultural settlement by the resumption of land from runs as required, unless the proprietors voluntarily surrendered for selection one-half of their runs, and accepted a ten years' lease for the remainder. The occupation of lands for pastoral purposes was further dealt with by Acts passed in 1869, 1876, and 1882.

(ii.) **General Settlement**. The third measure (24 Vic., No. 15), passed in 1860, provided for general settlement. This was also more an expansion of the existing law than the adoption of a new line of policy. This Act was amended in 1863 and 1864, and again in 1866, when a comprehensive measure was passed practically introducing the principle of deferred payment, although styled leasehold with the right of purchase. The principle of selection before survey was extended by the Crown Lands Alienation Act 1868, the Homestead Areas Act of 1872, and the Crown Lands Alienation Act of 1876. These measures with slight amendments, continued in force until 1884, when the Crown Lands Act was passed. This Act introduced the system of grazing farms and provided for the constitution of a Land Board which was the forerunner of the Land Court established by the Act of 1897. The complaints of pastoral lessees as to insecurity of tenure were also met by the Act of 1884, which, while securing prescribed proportions for settlement, gave the lessees fixed tenures of the remainder of their holdings for fifteen years, increased later to twenty-one years, subject to prescribed powers of resumption, and later again to twenty eight years on the holdings being enclosed by rabbit-proof fences.

(iii.) **Acts now in Force**. The Act of 1884 was, after various amendments, repealed by the Land Act 1897, which was in turn amended in 1902, 1905, 1908, and 1909, and which re-enacted with modification the provisions relating to grazing farms, abolished the exclusively leasehold tenure as applied to agricultural farms, restoring to them the earlier principle of conditional purchase, but on more liberal terms. Nearly all pastoral leases are now held under the Act of 1897, in conjunction with the Land Act 1902. Under the provisions of the Agricultural Lands Purchase Acts 1894 to 1905, power was given to the Government to repurchase lands for the purpose of closer settlement; these Acts have now been consolidated and repealed by the Closer Settlement Act of 1906. Under the Co-operative Communities Land Settlement Act of 1893, as amended in 1894 and 1895, provision was made for the establishment of co-operative communities **;** these Acts were, however, repealed by the Land Act Amendment Act 1909. The Special Agricultural Selections Acts 1901 to 1904 were passed for the purpose of promoting closer settlement upon agricultural lands, by affording to bodies of settlers special facilities for the acquirement of agricultural selections to be held in conjunction with portions in adjacent agricultural townships; these Acts were also repealed by the Land Acts Amendment Act 1909, which now provides for group selections by bodies of settlers. An important Bill was introduced in Parliament in 1910, the object of which is to consolidate, amend, and simplify the law relating to the occupation and alienation of Crown lands. The Bill proposes to take the place of thirty-two Acts relating to Crown lands repealed in 1908 and 1909, and also by the new Bill.

4. **South Australia and the Northern Territory**

In the year 1834 a Bill for the colonisation of South Australia was passed by the British Government, and under this Act the colony was founded. It provided for the appointment by the Crown of three or more Commissioners to carry certain parts of the Act into execution; they were to declare all the lands of the colony, excepting areas reserved for roads and footpaths, to be open to purchase by British subjects, and to make regulations for the survey and sale of such lands at such price as they might deem expedient, and for letting unsold lands for periods of not less than three years. They might sell the land by auction or otherwise, but for ready money only, at a uniform price, and at not less than twelve shillings per acre. The principles on which the

colony was established originated with Mr. Edward Gibbon Wakefield. The main idea in Wakefield's scheme was the sale of waste or unappropriated lands at a high price, and the application of the revenue thus obtained to the introduction of immigrants, so as to secure a constant supply of hired labour for the cultivation of the land and for the progress of settlement. Other leading features of the scheme were that no convicts should be transported, that no State Church should be established, and that the new colony should be financially independent, and not be a charge on Great Britain.

The Wakefield system fell into disfavour owing to the financial crises of the early forties, and soon had to be modified. It was not until 1872, however, that an Act was passed more in conformity with the legislation of the neighbouring States, and giving to settlers with only a small amount of capital an opportunity of settling upon the lands of the Crown under fair conditions and with a reasonable chance of success. The Act of 1872 was amended from time to time, until it was repealed and its provisions consolidated by the Crown Lands Act 1888. The principles of closer settlement were introduced by the Closer Settlement Act of 1897, which was amended in 1902, while village settlements were dealt with by the Village Settlements Act 1901.

(i.) **The Torrens Act**. Reference may here be made to the Real Property Act, which was originated in South Australia by the late Sir R. R. Torrens in the year 1858, and which has been adopted in all the States of the Commonwealth, and also in New Zealand. The objects of this Act are to give security and simplicity to all dealings with land, by providing for such registration of title as shall admit of all interests which may appear upon the face of the registry being protected, so that a registered title or interest shall practically never be affected by any claim or charge not registered. By this system everyone who acquires an estate or interest in land, upon being registered as owner thereof, obtains a title, if not absolutely at least practically secure against everyone whose claim does not appear upon the registry; and the two elements of simplicity and security as regards the acquisition of land appear to be effectually attained.

(ii.) **Acts now in Force**. The Act of 1888, referred to above, in course of time underwent numerous amendments, the whole being repealed and consolidated by the present Crown Lands Act of 1903, which also repealed the previous Closer Settlement and the Village Settlement Acts, and which in turn was amended in 1905 and 1906. A Bill to amend the provisions relating to Closer Settlement was introduced in 1910. Provisions as to the occupation of land for pastoral purposes are now contained in the Pastoral Act 1904, while special provisions for granting leases of reclaimed lands were made by the Irrigation and Reclaimed Lands Acts 1908 and 1909.

(iii.) **The Northern Territory**. In 1863 so much of the State of New South Wales as lay to the north of lat. 26° S., and between long. 129° and 138° E., was annexed to South Australia. This portion of the continent is under the administration of a Resident appointed by the Government of South Australia. The Acts referred to in the preceding paragraph hereof do not apply to the Northern Territory lands, the sale and occupation of which are now regulated by the Northern Territory Crown Lands Act 1890, the Northern Territory Lands Act 1899, and the Northern Territory Tropical Products Act 1904.

3. **Western Australia**

In the year 1827 Captain James Stirling, accompanied by Mr. Charles Fraser, the Colonial Botanist in New South Wales, made an examination of the country in the vicinity of the Swan River, with a view to the establishment of a settlement, and in consequence of the favourable report made by these gentlemen, the Imperial Government decided to organise a colonising expedition forthwith. On the 2nd June, 1829, the transport **Parmelia** arrived in Cockburn Sound, having on board Captain Stirling, who had been appointed Civil Superintendent of the Swan River settlement and a number of officials and intending settlers. On the 17th June the expedition disembarked and encamped on the north bank of the Swan River, at the place now called Rous

Head, and with the landing of these immigrants the settlement of Western Australia commences.

(i.) **First Grants of Land**. The first settlers were offered large grants of land proportional to the amount of capital introduced, at the rate of forty acres for every sum of £3, and of 200 acres for every labourer brought into the colony, the grants being subject however, to improvement conditions. Closely following the **Parmelia** a number of vessels arrived, increasing the number of settlers and introducing further supplies of livestock, until at the end of the year 1830 nearly 1800 immigrants had arrived in the colony. No preparations had been made for the reception or provision of these settlers; many of them were persons who were quite unfitted for the hardships which had to be endured, and a general feeling of despondency and depression commenced to spread amongst the colonists. Numbers left, rather than face the difficulties inseparable from initial colonisation; those who remained, however, struggled on manfully, and in spite of great hardships and privations laid the foundations of the present State.

(ii.) **Free Grants Abolished**. The original regulations under which grants were made to the first settlers were amended by others of a similar nature issued by the Imperial Government on the 20th July, 1830, which in turn were replaced in 1832, when free grants were abolished and land was sold at a minimum price of five shillings per acre. In 1837 the price of allotments in Perth, Fremantle, and Albany was fixed at a minimum of £5 an acre. New land regulations were issued by the Colonial Office 1843, 1864, 1873, 1882, and 1887, when the whole of the regulations were amended and consolidated. The colony was divided into six divisions in all, of which sale by auction was permitted, but otherwise the conditions of occupation differed in each division.

(iii.) **Acts now in Force**. In the year 1890 Constitutional Government was granted to the colony, and from time to time various amendments were made in the land laws until the year 1898, when a Land Act was passed amending, repealing, and consolidating previous legislation as to the sale, occupation, and management of Crown lands. This Act has in turn been amended in 1899, 1900, 1902, 1904, 1905, 1906, and 1909, and, with its amendments, is now in force. The principle of repurchasing Crown lands for the purpose of closer settlement was introduced by the Agricultural Lands Purchase Acts 1896 to 1904**;** these Acts were repealed and consolidated by the Agricultural Lands Purchase Act 1909.

6. **Tasmania**

The early settlement of Tasmania was carried out under the regulations framed for the disposal of Crown lands in New South Wales, of which colony it was, at the outset, a part, and after its constitution under a separate administration in 1825 the regulations issued from the Colonial Office for the settlement of Crown lands in the mother colony were made applicable to Tasmania. In 1828 the first land sales in the island took place, but so low were the prices obtained that 70,000 acres enriched the Treasury by only £20,000. In the month of January, 1831, the system of issuing free grants of land was abolished.

(i.) **The Waste Lands Acts 1858 to 1870**. In 1855 responsible government was granted to the island colony, and from this time dates the policy under which later settlement has taken place. The Waste Lands Act 1858 introduced the principle of free selection before survey. From 1860 to 1870 no less than thirteen Land Acts were passed, and in the latter year a new measure, the Waste Lands Act 1870, embodying and consolidating many of the salient features of previous enactments, was carried. The Act of 1870 gave power to the Governor to reserve such land as he might deem necessary for public purposes, and the lands not so reserved were divided into **(a)** town, **(b)** agricultural, and **(c)** pastoral lands. The upset price for agricultural lands was £1 an acre, that for pastoral lands being a sum equivalent to twelve years' rental, but not in any case more than five shillings an acre.

(ii.) **Acts now in Force**. Numerous amendments to the Act of 1870 were passed, until, in 1890, a

measure was carried, consolidating the various Acts then in force; the Act of 1890 was itself amended from time to time. The law relating to land tenure and settlement is now consolidated in the Crown Lands Acts 1903, 1905, and 1907; and in the Closer Settlement Acts of 1906, 1907, and 1908; a Bill to further amend the Closer Settlement Act was introduced in Parliament in 1910.

7. **Administration and Classification of Crown Lands**

In each of the States of the Commonwealth there is now a Lands Department under the direction of a responsible Cabinet Minister, who is charged generally with the administration of the Acts relating to the alienation, occupation, and management of Crown lands. The administrative functions of most of the Lands Departments are to some extent decentralised by the division of the States into what are usually termed Land Districts, in each of which there is a Land Office, under the management of a land officer, who deals with applications for selections and other matters generally appertaining to the administration of the Acts within the particular district. In some of the States there is also a Local Land Board or a Commissioner for each district or group of districts.

In most of the States Crown lands are classified according to their situation, the suitability of the soil for purposes, and the prevailing climatic and other conditions. The modes of tenure under the Acts, as well as the amount of purchase money or rent and the conditions as to improvements and residence, may vary in each State according to the classification of the land. The administration of certain special Acts relating to Crown lands has in some cases been placed in the hands of a Board, under the general supervision of the Minister; for such purposes, for instance, are constituted the Western Lands Board in New South Wales, the Lands Purchase and Management Board in Victoria and the Closer Settlement Board in Tasmania.

In each of the States there is also a Mines Department, which is empowered under the several Acts relating to mining to grant leases and licenses of Crown lands for mining and auxiliary purposes.

Full information respecting lands available for settlement or on any matter connected with the selection of holdings may be obtained from the Commonwealth representative in London, from the Lands Departments, or from the Agents-General of respective States. The administration and classification of Crown lands in each State was more fully dealt with in Year Book No. 2 (pp. 273-6) to which reference may be made.

SECTION 3. TENURES UNDER CROWN WHICH CROWN LANDS MAY BE ALIENATED OR OCCUPIED

1. **Introduction**

The freehold of Crown lands in the several States of the Commonwealth may now ordinarily be alienated either by free grant (in trust for certain specified purposes), by direct sale and purchase (which may be either by agreement or at auction), or by conditional sale and purchase. Crown lands may he occupied in the several States under a variety of forms of leases and licenses, issued both by the Lands and the Mines Departments.

2. **Classification of Tenures**

The tabular statement given on pages 246-247 shows the several tenures under which Crown

lands may be acquired or occupied in each State of the Commonwealth. The several forms of tenure are dealt with individually in the succeeding parts of this section. In the State of Victoria it is proposed to amend and consolidate the Land Acts at an early date, and to abolish some of the existing forms of tenure. Reference to any amending Acts which are passed up to the latest available date prior to the publication of this book may be found in the Appendix.

(i.) **Free Grants, Reservations, and Dedications.** The modes of alienation given in this category include all free grants either of the fee simple or of leases of Crown lands. "Free" homesteads in Queensland and Western Australia are not included in this class, these tenures being free in the sense that no purchase-money is payable, though the grants are not free from residential and improvement conditions. Reservation and dedication, which are ordinarily conditions precedent to the issue of free grants, are also dealt with herein.

(ii.) **Sales by Auction and Special Sales.** This class of tenure includes all methods by which the freehold of Crown lands may be obtained (exclusive of sales under the Closer Settlement and kindred Acts) for cash or by deferred payments, and in which the only condition for the issue of the grant is the payment of the purchase-money.

(iii.) **Conditional Purchases**. In this class are included all tenures (except tenures under Closer Settlement and kindred Acts) in which the issue of the grant of the fee simple is conditional upon the fulfilment of certain conditions (as to residence or improvements) other than, or in addition to, the condition of the payment of purchase-money.

(iv.) **Leases and Licenses**. This class includes all forms of occupation of Crown lands (other than under Closer Settlement and kindred Acts) for a term of years under leases and licenses issued by the Lands Departments. As the terms indicate, the freehold cannot be obtained under these forms of tenure.

(v.) **Closer Settlement Sales, Leases, and Licenses**. In this division are included all forms of tenure provided for under the various Closer Settlement Acts and also under kindred Acts, such as the Village Settlements and Small Holdings Acts.

(vi.) **Mines Departments' Leases and Licenses**. The tenures here specified include all methods in which Crown lands may be occupied for mining and auxiliary purposes under leases and licenses issued by the Mines Departments in the several States.

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